

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

COLE & ASHCROFT, LP  
d/b/a SHUTTER PLUS ,  
Plaintiff,

v.

Case No:

STATE AUTOMOBILE MUTUAL  
INSURANCE COMPANY,  
Defendant.

4:20-cv-03507

DEPOSITION OF MATTHEW OESTRIKE

DATE: Tuesday, March 25, 2021

TIME: 1:04 p.m.

REPORTED BY: Amanda Ricker, CER-1294

JOB No.: 5622

Conducted via videoconference via the Remote Legal  
platform



A P P E A R A N C E S

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1 one example of destructive testing, would be removing a  
2 panel of the -- to -- to look.

3 Q And you mentioned that you would need,  
4 probably need a contractor to assist you in doing that.  
5 Would that -- would that add to the expense of your  
6 investigation?

7 A Oh, sure. Yes.

8 Q And you mentioned removing a panel. What  
9 would you then do with that panel? Would that be sent  
10 to a lab, or do you have a lab on-site with Nelson  
11 Forensics? How -- what do you do once you remove a  
12 panel?

13 A Well, I mean, destructive testing is kind of  
14 two-fold. One, you could, you know, remove material to  
15 see it better, up close, and maybe see the side that's  
16 hidden that may be hard to access on-site, and you can  
17 see it on-site. Or, like you mentioned, you could send  
18 that material or panel to a -- to a lab, depending on  
19 what you're looking for, you know.

20 Q And Nelson Forensics does not maintain a lab  
21 for this type of testing; is that correct?

22 A Oh, we do have a laboratory. But, you know,  
23 that laboratory does certain tests. But I guess it  
24 depends on what you're talking about.

25 Q No. That answers my questions. I just wanted

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1 to know if you had an in-house testing facility or  
2 whether when doing these types of destructive testing,  
3 whether or not you -- whether you would always have to  
4 send them to a third-party laboratory. So --

5 A Yeah. I mean, it depends. I mean, we do have  
6 a laboratory in the -- the Dallas area, but, you know,  
7 depending on what type of testing needs to be  
8 performed -- our laboratory doesn't do all tests, but we  
9 do have several tests that we can perform. They're  
10 mainly on, like, membrane roofing types of materials or,  
11 you know, if -- that's probably the bulk of it. But,  
12 yeah, depending on what we're -- we're looking at.

13 You know, concrete cores, we can do some of  
14 that testing as well, but sometimes we'll send it out to  
15 another laboratory if needed.

16 Q One second. My apologies. A five-year-old  
17 wanted to know what was going on, anyway. All right.  
18 My apologies.

19 A It's okay.

20 Q Okay. Well, thank you. That answers my  
21 question. Thank you.

22 Moving on to what is page 2 of your report and  
23 page 5 of the exhibit itself, that's "Description of the  
24 structure."

25 Are you able to see that, Mr. Oestrike?



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1           A       I am.

2           Q       And in your description, you discuss,  
3 essentially, that there are three different structures,  
4 or three -- basically, an original structure and then  
5 two additions; is that correct?

6           A       That's what we're describing there, yes.

7           Q       Are you able from your picture to point out  
8 for me which portion represents the original structure  
9 that was completed in 1997, and then similarly, which  
10 portion is from '99, and then which is from 2007?

11          A       Well, there's different -- it looks like the  
12 original construction was maybe the majority of the  
13 office and that portion of the warehouse that's attached  
14 to the office with a lighter -- or I guess, a lighter  
15 color roofing panel. That may have been the original.

16                 I guess the addition to the warehouse would be  
17 from that point on where you see it's a more of a gray  
18 color, and it goes backwards towards -- or back towards  
19 the rear and towards the west. And then there must have  
20 been some office addition. And I'm not sure -- there's  
21 two types of roofing at -- above the office, and you can  
22 kind of see the different shades of color. But sitting  
23 here right now, I'm not sure which was the original and  
24 which -- now, often the original is the bigger portion,  
25 but I'm not sure if that was the case, which part was



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1 the original and which part was the addition.

2 Q And you mentioned something, you said that  
3 there's a darker portion and then a lighter portion of  
4 this -- of the roofs on this property; is that correct?

5 A That's correct.

6 Q And why is one darker than the other; do you  
7 know?

8 A Oh, no. Either the coating is different, but  
9 they were installed at different times. Maybe a, you  
10 know, the coloration of the coating or of the, you know,  
11 the panel may be from a different, you know,  
12 manufacturer, where the coating that was applied was a  
13 different, you know, shade. But they were -- both  
14 likely installed at two different times.

15 Q Okay. All right. Moving on to page 3 of your  
16 report and page 6 of the document, of the exhibit. If  
17 you can see that, that's labeled "Reported Information."  
18 And you -- this appears to me to be a description of  
19 your -- the background information you obtained from Mr.  
20 Demeritt with National Public Adjusting; is that  
21 correct?

22 A That's correct.

23 Q And according to your report, Mr. Demeritt  
24 indicated that the -- that a hail storm affected the  
25 roof on May 9th of 2019; is that correct?



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1           A     That's correct.

2           Q     And then also, according to Mr. Demeritt,  
3     those hail impacts caused damage to both the upper and  
4     lower roofs, that he found 143 indentations on the north  
5     roof plane and 139 indentations on the south roof plane;  
6     is that correct?

7           A     Of -- yeah, of the upper roof.

8           Q     Okay. So when he says -- when your -- or,  
9     when your report says "north roof plane" that's the --  
10    which is that, the upper or lower roof?

11          A     Well, it's -- I think he -- he counted -- he  
12    or whoever from his company -- counted the number of  
13    indentations on each roof plane, which would be -- those  
14    were at the upper roof. So that, if you're looking at  
15    the front of the building, the north roof plane would  
16    have been towards your right, and the south roof plane  
17    would have been towards your left.

18          Q     That makes sense.

19          A     Back of the building, you know if you're  
20    looking at the front of the building.

21          Q     And then Mr. Demeritt said that he was "not  
22    aware of hail impact damage at the exterior walls of the  
23    structure"; is that correct?

24          A     That's correct.

25          Q     And then we've already discussed that there's



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1 been a couple of additions to the structure since its  
2 original construction; is that correct?

3 A That's correct.

4 Q Anything else that Mr. Demeritt may have told  
5 you by way of background that is not here in your  
6 report?

7 A No. I mean, those were the main things that  
8 were reported to us. I mean --

9 Q All right. Moving on to what is page 4 of the  
10 report and page 7 of the exhibit itself. This is  
11 just -- this appears to be you making -- or in your  
12 report, making observations. I wanted to start with  
13 just under the lower roof. You indicate that, "Remedial  
14 sealant was applied to the majority of exposed fasteners  
15 at the R-panel roof sections"; is that correct?

16 A That's correct.

17 Q And what does that mean? What is remedial  
18 sealant?

19 A That's sealant applied after the original  
20 installation. Remedial being, you know, either for, you  
21 know, a type of repair or -- or in this case, you know,  
22 if you see it all over the fasteners or maybe leaks at  
23 the fasteners. But remedial, it's -- it's a -- it  
24 wasn't -- it wasn't installed at the time of original  
25 construction.



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1 Q And what is a fastener on a -- at an R-panel  
2 roof?

3 A Well, it's like a -- you know, it's a screw.  
4 You know, it's -- it's a screw -- it's a typical rubber  
5 flush or a grommet that's between the screwhead and  
6 the -- a roof panel.

7 Q All right. What I'll represent here to you as  
8 being the third bullet point here, "All of the  
9 indentations appear to be relatively shallow, with a  
10 depth of indentation less than approximately 3 and 3" --  
11 or 32nds, 32 inches; is that correct?

12 A That's correct.

13 Q And what do you mean by shallow?

14 A You know, not that deep. Kind of relatively  
15 not that deep. That's why we gave a -- we gave a  
16 thickness there. You know, sometimes you'll have a deep  
17 indentation or deformation that, you know, that could  
18 damage the integrity of the metal. Like, you know, it's  
19 from a heavy tool or object that hits the panel. Then  
20 those are typically deeper than what those -- from what  
21 the circular indentations that we saw on this site.

22 Q So does the depth, so to speak, of an  
23 indentation, is that important when assessing the damage  
24 to an R-panel roof such as this?

25 A It's -- it's information. You know, it's --



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1 it kind of tells you that the indentations that we're  
2 seeing are consistent with hail because hail of this  
3 diameter doesn't cause deep gouges or, you know, this is  
4 kind of a general observation of these indentations that  
5 we're seeing versus something that's mechanical in  
6 nature or, you know, someone -- there's some type of  
7 object or tool that's causing indentations in -- in the  
8 metal panel. Or would you -- or we may describe that  
9 differently.

10 Q Okay. The next bullet point says, "None of  
11 the indentations were located at the side lap or end  
12 seams of the R-panels nor at the standing seams"; is  
13 that correct?

14 A That's correct.

15 Q And what are -- what are side lap or end  
16 seams?

17 A Well, you know, a panel will, you know,  
18 these -- for instance, an R-panel or a standing seam  
19 panel are either roughly three feet wide or two feet  
20 wide, or some width. But they come in lengths, so it  
21 may be 3 feet wide, and it may go ridge -- from ridge to  
22 eave, and that may be 25 feet. So that panel will  
23 have -- the dimensions will be 3 feet wide by 25 feet  
24 long. And so, your, you know, your end seams will be at  
25 the upslope and down slope side of that panel, and the



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1 side lap will be on the longitudinal -- along the length  
2 of that panel.

3 Q Okay. And I think you've testified that the  
4 material here at the Cole & Ashcroft building, it's an  
5 R-panel and a standing seam roof. What's the difference  
6 in those two, an R-panel and a standing seam roof?

7 A You know, an R-panel has kind of a -- well, I  
8 guess they both, kind of, have a -- kind of a  
9 trapezoidal configuration. But the standing seam  
10 obviously has a seam that it's raised above, you know,  
11 above the -- I guess the geometry or configuration of  
12 the panel -- at that panel rib. Where the R-panel is  
13 more of a -- it's lapped on top of one side. It's  
14 lapped on, you know, like, the side. I guess the side  
15 lap; you'll have a double-thickness right where it's  
16 lapped over one another, and it's not crimped.

17 Where a standing seam is crimped on-site, and  
18 it's crimped 90 to 180 degrees where the seam is kind of  
19 folded over, and it's -- it's hidden, so to speak.

20 And then a standing seam, you have hidden --  
21 hidden fasteners, unless you're at the end of the panel.  
22 That's -- that's a matter of where the R-panel -- R-  
23 panel fasteners are all exposed.

24 Q Okay. Thank you. You -- what I'll say is the  
25 sixth bullet point on this page of your report,



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1 "Coincident burnish marks at some of these indentations  
2 where the roof panel surface at the indentation was  
3 exposed and not covered with chalk"; is that correct?  
4 That's what it says?

5 A That's correct.

6 Q What's a coincident burnish mark?

7 A Basically, a burnish mark at an indentation.  
8 Meaning they're at the same general location.

9 Q Okay. Same general location. And a burnish  
10 mark, I believe you identify this later in your -- in  
11 your report, but a burnish mark, is that the same as a  
12 hail spatter? Are those two the same?

13 A Yeah. We -- we -- those are similar terms and  
14 mean similar things to me.

15 Q All right. The last on this page -- last  
16 bullet point, it says, (as read) "Isolated circular  
17 indentions at the top of the front east side parapet  
18 wall flashing, with indentations measuring approximately  
19 1/2 inch to 5/8 in diameter"; is that correct?

20 A I don't know --

21 Q The last -- it's probably my -- there you go.

22 A Let's see, can I -- oh. The last bullet, did  
23 you read?

24 Q Yes.

25 A I see that. Okay. I see that, yeah.



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1 Q What is a parapet -- side parapet wall cap  
2 flashing?

3 A You know, a parapet wall is basically a wall  
4 that kind of projects above a roof and is at the  
5 perimeter, and the cap flashing is basically that  
6 flashing that covers the top of that wall. And so when  
7 you look at it in profile, if you -- let's say, you cut  
8 a section through that parapet wall, that cap flash --  
9 that flashing looks like a cap, so to speak. So you  
10 have two -- two vertical legs and kind of a flat surface  
11 on top. So that's kind of why we call it cap flashing.

12 Or we may -- may use the term coping as well.  
13 They mean the same thing to me.

14 Q All right. Thank you. All right, turning to  
15 page 5 of your report, and then on page 8 of the  
16 exhibit, this is regarding your -- what you've written,  
17 or you evaluated on the upper roof. The first bullet  
18 point makes note of "Remedial sealant to the majority of  
19 the exposed fasteners"; is that correct?

20 A That's correct.

21 Q Is -- do you know if that was the same  
22 remedial-type sealant present at the lower roof?

23 A I don't know if all of it was the same. I  
24 know it was black sealant down both the lower and upper  
25 roof that looked similar, but, you know, there may have



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1 been more than one color of sealant. So, you know, in  
2 general, it looked -- the black sealant looked similar.

3 Q Okay. Thank you. About what I -- it was the  
4 seventh bullet point, here sort of in the middle,  
5 "Isolated kinks, i.e., localized buckling at the panel  
6 rib."

7 What are -- what are isolated kinks? What's a  
8 kink?

9 A Well, we kind of -- we try to -- I tried to  
10 define it generally there, localized buckling at the  
11 panel rib. So often with -- with R-panel roofs,  
12 you'll -- and -- and I call it, and some of the others  
13 at our company call it kinks, but you may call -- you  
14 may call it crimping. We don't -- I don't use the term  
15 crimping because crimping is a form of insulation that's  
16 manipulating the panel. So kink is basically a  
17 localized area where this -- the panel rib -- so an R-  
18 panel has major -- typically major ribs and minor ribs.  
19 The major ribs are 12 -- 12 inches on center. And if  
20 you put a large object in a concentrated location, and  
21 often this is related to a footfall or someone walking  
22 on the ribs improperly, to cause these kinks to occur.

23 Q These --

24 A And so the top of the -- top of the panel  
25 rib -- it can't -- you know, it doesn't support someone



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1 walking and putting all their weight on that one  
2 location. So it will kind of buckle in that one little  
3 area.

4 Q Can it -- a kink like this, can it be caused  
5 by hail, or is it always mechanical or footfall?

6 A It's almost always related to mechanical  
7 related by -- and -- majority is footfall. You know,  
8 once in a while you'll see footfall or, you know, weight  
9 from contractors or you sometimes see kinks around  
10 rooftop mechanical units where they're either moving a  
11 lot of material or storing a lot of material, or there's  
12 a lot of weight at an area where they're working.

13 So you know, anytime you put a weight, a lot  
14 of weight on these ribs in a concentrated fashion,  
15 they -- they'll buckle. I mean --

16 Q What I'll say is one, two, three, four from  
17 the bottom here, bullet point, it says, "Membrane tape  
18 flashing applied over metal flashing and foam closures  
19 at the ridge vent locations."

20 What is membrane -- well, is that correct? Is  
21 that what it says?

22 A That's what it says, yes.

23 Q But what is membrane tape flashing?

24 A It's -- in this case, it was kind of a  
25 flexible rubber flashing that looks like a wide piece of



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1 tape that you can kind of manipulate. I mean, it can --  
2 it can -- you can apply it in areas where there's, you  
3 know, flat surfaces. Typically, it's used where you  
4 want to cover an opening, a gap, or a separation.

5 So on one side is -- one side is an adhesive  
6 that fully adheres to the material that you're applying  
7 it to, and then, in this case, I think it was aluminum  
8 face on the outer surface. So it's basically used to  
9 prevent, you know, water from entering at that location.

10 Q And that would be the purpose for applying  
11 that material is to prevent water from intruding at that  
12 location?

13 A I -- yeah, that -- that would make the most  
14 sense at that -- that area.

15 Q Okay. Moving to page 6 of your report. These  
16 are the photos, the beginning of some photos here. If  
17 you see Figure 3 and Figure 4, what looks to be some  
18 black material, that is the sealant that you were  
19 mentioning earlier?

20 A That's correct.

21 Q Okay, then. In Figure 4, you say the "General  
22 area of the roof above moisture distress/deterioration  
23 at roof decking and south storage room."

24 What do you mean by that? Is there -- are you  
25 saying that the -- that portion or panel, that there's



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1 some form of deterioration?

2 A Well, you know, I don't know. I don't know  
3 why that's even in there. That might be a typo. Can I  
4 read it -- I don't remember looking at the storage room,  
5 unless -- I don't think we looked at anything in the  
6 inside. So I'm not really sure. That may just be, you  
7 know, a copy and paste from a different report. It  
8 doesn't make any sense, that last part.

9 Q Okay. Figure 5, here at the bottom left-hand  
10 corner, "It's a burnish mark at circular indentation  
11 that measured approximately 1/2 inch in diameter."

12 Is that correct?

13 A That's -- that's correct.

14 Q And that burnish mark, that is indicative of  
15 hail, that's a hail impact?

16 A Yeah. I mean, that's what -- if it's at a  
17 circular indentation and, you know, it -- it most likely  
18 looked like hail impact to us.

19 Now, when we -- it's important to state that,  
20 like, in these photographs, and we're -- we're trying to  
21 describe what we're seeing the best we can. We try not  
22 to give, I guess, conclusions or opinions in our  
23 observations. From time to time, you may see something  
24 that's consistent with an opinion, but right now, we're  
25 just trying to describe what we're evaluating.



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1 Q Then moving to page 7 of your report, 10 of  
2 the exhibit, looking at Figure 8, "Chalk applied to  
3 metal cap flashing showing circular indentations at the  
4 front parapet wall."

5 This is the cap flashing that you were  
6 describing earlier?

7 A Yes, it is. Uh-huh.

8 Q And then moving to page 8 of your report and  
9 11 of the exhibit, Figure 13, "Isolated kink at the  
10 metal roof panel rib."

11 Is that correct?

12 A That is -- that's correct.

13 Q And that's the K? I believe that a blue chalk  
14 with a -- with a K. Is that what you're identifying  
15 there?

16 A Yeah. That's correct.

17 Q And, again, your opinion is that that kink is  
18 not the result of hail?

19 A No. It just -- it wasn't shaped like hail.  
20 It -- the deformation often is on -- a kink is -- again,  
21 you can see, like, three sides of that -- that rib  
22 that's deformed. It just doesn't -- didn't look like  
23 hail to us.

24 Q Okay. I'm going to move to and direct your  
25 attention to page 10 of your report, 13 of the document.



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1 And the -- it is the, I guess, the second-to-last bullet  
2 point there. It says, "No indentations or fractures at  
3 any of the fiberglass wall lites."

4 What's the -- is that correct?

5 A Yeah. That's what -- that's what's stated.

6 Q And what is a -- what is a fiberglass wall  
7 lite?

8 A It's basically a translucent panel that's  
9 covering, but it's allowing light into the -- the  
10 building.

11 Q Sort of like a window?

12 A Yes. Kind of like a window.

13 MR. FADNER: Okay. All right. Well, I  
14 think it's a good period -- time to take a quick break.  
15 We've been going for another -- about another hour. So  
16 if we can take another short break and then we'll try to  
17 get this wrapped up.

18 THE WITNESS: Sure. Sound -- sounds  
19 good.

20 MR. FADNER: All right.

21 THE DIGITAL REPORTER: We are going off  
22 the record at 4:46.

23 (Off the record.)

24 THE DIGITAL REPORTER: Okay. We are back  
25 on the record at 4:58 p.m.



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1 BY MR. FADNER:

2 Q Okay. All right, Mr. Oestrike. Thank you.  
3 We were going through your report. I've got my screen  
4 here. This is page 13 of your report, page 16 of the  
5 exhibit itself. This looks to be an aerial photo of the  
6 building; is that correct?

7 A I believe the roof -- oh, yes, now, it is.  
8 Yes, I see it.

9 Q Okay. And in your paragraph there, you -- the  
10 first sentence there that's, "Nelson performed a roof  
11 impact evidence survey by selecting and evaluating six  
12 representative 10-by-10 sample areas of the roof of the  
13 subject structure."

14 Is that correct; is that accurate? That's  
15 what it says?

16 A That's what it says. That's correct.

17 Q And this is representative of those 10-by-10  
18 sample areas that you had mentioned previously in your  
19 deposition, correct?

20 A That's correct.

21 Q And in this case, it appears you did six of  
22 those 10-by-10 test squares, correct?

23 A That's correct.

24 Q Do you remember -- and by looking at the  
25 photo, perhaps that it assists your memory as well. But



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1 do you remember why you chose to do six 10-by-10 sample  
2 squares in this -- in this case?

3 A It -- I think it made the most sense. You  
4 know, this building really had two directional roof  
5 planes, the north and south. So if they had a north,  
6 south, east, and west, and they were all similar in  
7 size, we would have started with at least one in each  
8 roof plane. So, you know, we -- we select the number of  
9 samples based on the size of the roof. And in this  
10 case, there was a lower roof and an upper roof, so I  
11 wanted to at least get a sample area on the north roof  
12 plane and south plane of the lower and the upper. But  
13 then also, I think I captured potential areas on the  
14 upper roof -- I did another one to -- where the panels  
15 looked different to me in coloration. So I tried to  
16 capture a sample area on all the -- the different times  
17 of roof installation possibly, and in the amount of  
18 sample areas that I thought was sufficient for the size  
19 of the building.

20 Q Okay. Moving on to page 14 of your report, 17  
21 of the exhibit, this appears to be a table, what is  
22 labeled as Table 1, and it's a "Summary of Roof Impact  
23 Evidence Survey"; is that correct?

24 A That's correct.

25 Q And this is my -- by my estimation, this table

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1 indicates the amount of circular indentations that you  
2 found within each of the six 10-by-10 test squares that  
3 you conducted?

4 A That's correct.

5 Q And I notice that you say there in the, I  
6 guess, the fourth column, that says, "Number of Circular  
7 Indentations," correct?

8 A That's correct.

9 Q And is there -- were those circular  
10 indentations, does that mean hail indentations, or are  
11 you opining that it could mean something different?

12 A It's circular indentations of the size that we  
13 saw within these sample areas, you know, they're --  
14 they're consistent with hail. So yeah, I mean, we're  
15 kind of using this information still with the testing to  
16 formulate our ultimate opinions, whether these were  
17 indentations and -- I mean, from indentations, circular  
18 indentations from hail.

19 So we -- we leave it typically general in this  
20 table, at this -- at this part of the report.

21 Q Below -- so there's a -- there's a section  
22 there, a row there that says, "Average"; is that -- do  
23 you see that?

24 A That's -- that's correct.

25 Q And you're averaging the number of



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1 indentations among the six test areas, correct?

2 A That's correct.

3 Q And your average that you came up with in your  
4 investigation was 3.7, right?

5 A That's -- that's correct.

6 Q Okay. And I guess -- let's see -- the -- for  
7 the north -- the north portion of the structure, you've  
8 got eight, plus four, plus two -- so eight, nine, ten,  
9 eleven, twelve, thirteen -- so 14 circular indentations;  
10 is that accurate?

11 A That's correct in those three sample areas,  
12 yes.

13 Q And then there's three sample areas for the  
14 south; is that correct?

15 A That's correct.

16 Q Three, four, five, six, seven, eight -- so  
17 that's eight circular indentations on the south portion?

18 A That's correct.

19 Q Okay. My question to you then is earlier we  
20 discussed your background conversations with Mr.  
21 Demeritt, and that -- which is on page 3, and we can go  
22 back to it if necessary, but it's page 3 of your report.  
23 And Mr. Demeritt, he indicated that he had found 143  
24 indentations on the north plane and 139 indentations on  
25 the south plane. Do you recall that?



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1           A       That's correct, yes.

2           Q       How do you explain the discrepancy between the  
3       indentations that you found and the indentations found  
4       by Mr. Demeritt?

5                   MR. KEMP:  Objection.  Form.

6                   THE WITNESS:  Well, Demeritt, I guess he  
7       must have had someone walk and count every indentation  
8       and tally them up.  These are just -- we were just doing  
9       representative samples of the roof planes, and so it's  
10      an average per that 100 square foot sample area.  So  
11      obviously, if you multiplied the area of the roof plane,  
12      or the number of squares of a roof plane times that 3.7,  
13      you'd probably have a closer number to that -- to those  
14      total numbers that Mr. Demeritt counted.

15      BY MR. FADNER:

16           Q       And did you perform that calculation in this  
17      case?

18           A       No.

19           Q       Why not?

20           A       When -- I mean, we're giving an average per  
21      representative sample area, so we thought that was  
22      sufficient.

23           Q       You thought the -- that just providing the  
24      average of the representative test square was sufficient  
25      in this case?



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1 A Yes, uh-huh.

2 Q And you didn't think it was important to  
3 perform the calculation you explained earlier to see how  
4 it may differ from the total indentations that were  
5 located by Mr. Demeritt?

6 A No. I -- I mean, I didn't disagree with his  
7 numbers. We just don't typically count the indentations  
8 on a -- you know, on a roof plane. That's -- that's the  
9 purpose of doing sample areas, just to get an idea.

10 Now, there is -- there are times where we, you  
11 know, in the selection of the sample areas, let's say,  
12 we either -- if something doesn't, I guess, logically  
13 make sense. So, let's say, if we saw his number of  
14 whatever it was, 139, 143, and we took a sample area and  
15 didn't get any indentations, then we, you know, we may  
16 take another sample area or another one, to just say,  
17 okay, well, how come someone else got, you know, 130,  
18 140 indentations, and we're doing sample areas, you  
19 know, and we're not getting any.

20 So sometimes we're on -- on-site, we'll look  
21 for logical reasons to add another sample area or see,  
22 is there a -- is there a pattern, so to speak, or a  
23 location on a roof that maybe there's more indentations  
24 than others.

25 But, you know, we found indentations in all



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1 six of them, and if you multiplied those averages out  
2 and using this -- the square area of the roof, you know,  
3 that's, you know, we don't -- I mean, we don't disagree  
4 with the number. It could be something more than 139,  
5 143. It could be something less. But we just -- we  
6 don't typically count all the indentations on a roof  
7 like -- like that.

8 Q Okay. I understand. Thank you. Turning to  
9 page 15 of your report and 18 of Exhibit A, I wanted to  
10 look at this Figure 40. First, it says, "No abrasion  
11 distress at area of indentation shown in previous  
12 figure"; is that correct?

13 A That's correct.

14 Q What is abrasion distress?

15 A What we're really talking about is abrasion  
16 distress to the coating of the panel. So if you, you  
17 know, took a sharp object and, I don't know, on the  
18 surface of the roof panel, and you cut through that  
19 coating, so to speak, that's kind of what we're looking  
20 for, like a scrape.

21 Q Would an abrasion to the coating affect the  
22 functionality of the roof?

23 A No. Not -- not -- no, not on a -- just a  
24 simple abrasion.

25 Q Why wouldn't it? Why wouldn't it affect the



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1 functionality?

2 A Well, when you change the life expectancy of a  
3 roof, it would cause water entry, and your coating  
4 provides enough protection where that -- that's, you  
5 know, that -- that similar area of abrasion distress  
6 is -- is not going to damage the function of the roof.

7 Q Did -- does the abrasion distress, similar to  
8 what's shown in Figure 40, does that lead to oxidation  
9 of the roof?

10 MR. KEMP: Objection. Form.

11 THE WITNESS: If -- if the abrasion is  
12 large enough, but you know, the coating on the roof, you  
13 know, there's a chemical process where there is both --  
14 and there's protection provided by that coating, whether  
15 it be galvanized coating or galvalume, and it protects a  
16 roof where it's not going to degrade at -- in a -- in an  
17 isolated abrasion location.

18 BY MR. FADNER:

19 Q Well, would you agree with me that if a -- if  
20 a coating is removed, then it would -- it could be --  
21 the roof material could be subject to oxidation?

22 A Yeah, maybe in that -- that localized area.

23 Q And, again, but you don't think that oxidation  
24 affects the functionality or the life expectancy of the  
25 roof?



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1 A Not -- not in the case that you're describing,  
2 or not in the case of this -- the hail impact.

3 Q What -- in what case would it affect the life  
4 expectancy or functionality of a roof?

5 A If the abrasion, like, cut into the panel, and  
6 it was large enough, that may -- that may cause a  
7 degradation of the metal panel, but not in the case of  
8 hail impact of this size.

9 Q In Figure 40, what exactly are -- it seems as  
10 though you are using some sort of tool, magnifying  
11 glass, for lack of a better description.

12 A Yeah.

13 Q What are you using there to --

14 A Yeah. It's kind of a magnifying glass on  
15 our -- you know, that's basically what it is.

16 Q Do hail burnish marks or spatter to a metal  
17 roof with a cap flashing like we've seen in this case,  
18 can that potentially lead to oxidation?

19 A Depending on the -- the coating. Yeah,  
20 that -- how thick the coating is, you know, it can --  
21 but, again, the -- the coating itself provides  
22 protection for -- even at the area of where the coating  
23 is, you know, if there's abrasion, and -- and the  
24 coating provides through this chemical process with the  
25 anode and cathodes, it provides protection for that



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1 don't know if we get a bulk rate from CoreLogic or not,  
2 but they're -- they're one of the reports that, just  
3 like I said, they're understandable, readable, and they  
4 provide a good history at, you know, locations. So I  
5 don't -- I don't think we have any kind of rate for  
6 their services, but I'm not -- I'm not entirely sure.

7 Q You mentioned a moment ago that the -- that  
8 you can, in your opinion as an expert, you can look at a  
9 burnish mark and determine the recency of that -- of  
10 when that hail may have impacted. How do you determine  
11 sort of the recency or lack thereof of a burnish mark?

12 A And that -- that's -- if the burnish mark is  
13 pretty well-defined, we know it's fairly recent. And  
14 fairly recent -- and that can be a loose term depending  
15 on the surface and what's on the surface.

16 If we see burnish marks, I can, for the most  
17 part, say they've happened in the last couple years. I  
18 can't always tell between a burnish mark that's six  
19 months old and two years old.

20 But the older the surface gets, the burnish  
21 marks fade away, and you don't see them. So it can be  
22 up to a few years, but it just gives us an idea of  
23 what's -- what's going on on-site and how defined that  
24 burnish mark is, can -- can give us some idea how recent  
25 it is. But, again, it's just a general assessment.



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1 Q Okay. And paragraph 4 -- paragraph 4, the  
2 last paragraph, the second sentence says, "The hail  
3 event with the largest estimated maximum hail size at  
4 the subject site occurred on May 9th, 2019, the reported  
5 date of loss, within an estimated maximum hail of 1.2  
6 inches in diameter"; is that correct?

7 A That's correct.

8 Q Okay. Let me go -- page 19 of your report and  
9 22 of the document, and, again, the -- you have -- this  
10 is your analysis section according to the report. At --  
11 you have bolded certain items within these paragraphs;  
12 is that correct?

13 A That's correct.

14 Q Is that -- is that just simply meant for ease  
15 of -- ease to the reader to bold your overall -- or your  
16 overall conclusions?

17 A Yeah. I just kind of -- we try to be  
18 consistent where the bold is, kind of, identifying our  
19 opinions, our basic opinions. We may have a paragraph  
20 without a bold section, but it looks like in this  
21 report, most of the bold portions are where there's an  
22 opinion provided.

23 Q And then the first bold sentence just says  
24 that, "Nelson's of the opinion that the hail event that  
25 occurred on May 9th of 2019, caused the indentations on

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1 the aforementioned roofing areas," correct?

2 A That's correct.

3 Q Well, moving on to the second paragraph, the  
4 second bolded sentence on this page -- skipping ahead a  
5 bit, essentially -- well, it's -- the report -- the  
6 bolded portion just says that, "Nelson's opinion that  
7 the hail-related indentations to the roof panel and  
8 other components have not compromised the function,  
9 waterproofing capability, or future performance of the  
10 roof system"; is that correct?

11 A That's correct.

12 Q The -- skipping to the next paragraph, the  
13 next bolded sentence, "Circular tears and holes in the  
14 older-looking membrane tape flashing that measured 1/2  
15 to 1 in diameter are attributed to hail impact during  
16 the date of loss"; is that correct?

17 A That's correct.

18 Q What is membrane tape flashing?

19 A That's what we were talking about before.

20 Q Okay.

21 A In this case, this membrane tape flashing  
22 appeared to be a remedial measure because where it was  
23 applied is at an area where you typically have closure  
24 strips -- we call them closure strips, which -- where  
25 your -- your R-panels, in this case, have major ribs at



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CERTIFICATE OF NOTARY PUBLIC

State of TEXAS )

County of BASTROP )

I hereby certify that on the 25th day of March  
2021, before me, a notary public for the State of Texas,  
Matthew Oestrike remotely appeared via videoconference,  
and prior to testifying, swore an oath to tell the  
truth.

DATED this 25th day of March 2021.

*Lisa Ann Lopez*

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LISA LOPEZ

Notary Public, State of Texas

Commission No.: 13287729-8

Commission Expiration: 1/19/2025



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CERTIFICATE OF THE DIGITAL REPORTER

I, AMANDA RICKER, Digital Reporter certify:

That the foregoing proceedings were taken  
before me at the time and place therein set forth.

That the testimony of the witness and all  
objections made at the time of the examination were  
electronically recorded by me and thereafter  
transcribed;

That the foregoing is a true and correct  
transcript of my electronic recording;

And I further certify that I am not a relative  
or employee of any attorney, or of any party, nor  
financially interested in the action.

DATED this 25th day of March 2021.



Amanda Ricker, CER-1294

Digital Court Reporter



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CERTIFICATE OF TRANSCRIPTION

REMOTE LEGAL does hereby certify that the electronic recording produced by AMANDA RICKER, of the deposition of MATTHEW OESTRIKE, was transcribed by REMOTE LEGAL and that the foregoing transcript is a true and accurate transcript of said electronic recording to the best of our knowledge, skill, and ability.

REMOTE LEGAL further certifies we are neither counsel for, related to, nor employed by any of the parties to the action; and, further, are not a relative or employee of any attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Dated this 9th day of April 2021.



SUSAN E. LAPOOH, CER-1199

Director of Remote Testimony Capture



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